REMARKS

Interview Summary

Prior to June 5, 2001, the undersigned left a message with Examiner Gambrel that Applicants desired to file an Information Disclosure Statement in the above-identified application and that the number of documents to be filed was potentially very large. The undersigned inquired as to whether the Examiner wanted copies of all relevant documents or whether the Examiner would prefer applicants to be selective in the submission of documents. The Examiner indicated (in a phone message) that it was up to the Applicant to decide what to submit and that the Applicant should consider what documents might be relevant to the claimed invention. In accordance with this suggestion, Applicants' Representatives have reviewed numerous documents and have made a good faith effort to select documents that may be relevant to patentability. These documents were submitted with the IDS being filed on June 28, 2001.

On June 5, 2001, a telephone interview was conducted between the undersigned and Examiner Gambel. During the interview, several topics were discussed.

(1) Examiner Gambel indicated that it was only necessary to file one copy of the references to be submitted in an Information Disclosure Statement (IDS). An IDS will also be filed in a related application being handled by Examiner Gambel. A second copy of the references does not need to be filed in that related application.

(2) Examiner Gambel suggested that the language "in clinical need thereof" should be changed to be similar to the language used in one of U.S. Patents 5,545,403, 5,545,404 or 5,545,405. In response to this suggestion, the phrase "in clinical need thereof" has been changed to "suffering from a disease or disorder". The new language is consistent with the language of related U.S. Patent 5,545,403.

(3) Examiner Gambel was also advised that there was a related U.S. District Court litigation and that APJ Sally Gardner-Lane was handling the related interference.

(4) The undersigned also advised the Examiner that Applicants were considering claim amendments to clarify that the claims were limited to use of antibodies that were not conjugated to radionuclides. The Examiner indicated that this is

how he interpreted the claims and that this type of antibody was supported by the disclosure.

(5) Finally, the undersigned inquired as to whether the Examiner would be available for a personal interview. The Examiner suggested convenient dates for a possible interview. However, the Examiner and the undersigned were not able to arrange for a date that was mutually agreeable.

Amendment to the Specification

The specification has been amended to delete reference to an improper journal article. Although the journal article describes certain types of dhfr- CHO cell lines, it does not describe the specific cell line used in Example 6 (DUK-B11). This cell line is described in other prior art references such as Kaetzel et al, PNAS USA82:7280-7283 (1985).

Claim Amendments

The claims have been amended to recite that the therapeutic method is an "immunotherapy" method, as contrasted with a radioimmunotherapy method. In an immunotherapy method, a therapeutically effective antibody is used as a therapeutic

agent. The antibody is therapeutically effective and does not have to be conjugated to a toxic agent, such as a radionuclide or toxin, in order to kill undesired cells. Support for an "immunotherapy" method can be found in the specification at page 4, second paragraph, last sentence. Support for claim 80 can be found in the specification at page 9, lines 23-26. Support for claim 81 can be found in the specification at page 9, lines 21-22. Support for claim 82 can be found in the Examples in the specification.

Response to Requirement for Election of Species

In response to the Examiner's requirement for an election of species, applicants hereby elect claims wherein the cancer is non-Hodgkins lymphoma. Claims 48, 49, 54, 55, 58, 59, 64, 65 and 68-85 are readable on the elected species.

Information Disclosure Statement and Request for Interview

An Information Disclosure Statement was filed on June 28, 2001. Applicants have made a good faith effort to present all information that may be relevant to the patentability of the claims of the present application. In the IDS, Applicants have

commented on various information that was given particular attention by the Senior Party Cabilly in Interference No. 104,532 and by Genentech in the related U.S. District Court litigation. A copy of the jury verdict from the litigation is enclosed.

If the Examiner has any questions concerning the information presented in the IDS or wants any additional information concerning a certain point, the Examiner is encouraged to contact the undersigned, and additional information will be provided. A complete transcript of the trial is available if the Examiner would like to review it. Also, copies of all of the documents filed in the interference are available and copies of any papers that the Examiner may want will be provided to the Examiner.

After the Examiner has considered the information submitted in the Information Disclosure Statement, applicants request a personal interview before an action on the merits if the claims are not allowable.

Comments on Patentability of the Claims

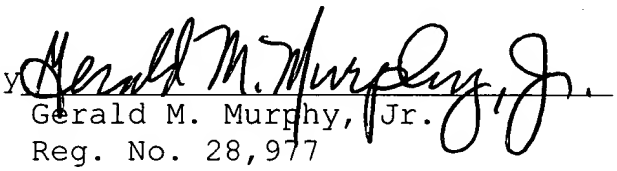
It is submitted that the claims presented above are patentable over all of the prior art of record and that the claims meet the other conditions of patentability.

Pursuant to 37 C.F.R. § 1.17 and 1.136(a), Applicants respectfully petition a one (1) month extension of time for filing a response in connection with the present application. The required fee of $110.00 is attached hereto.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By 
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Attachments: Mark-up Version Showing Amendments
Copy of Jury Verdict